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ABSTRACT

For nearly 20 years, the California Postsecondary Education Commission has been actively involved in the development of a strong and vigorous private postsecondary and vocational education presence in California. The private postsecondary sector serves some 412,000 students seeking an education beyond high school. Following a period in the early and mid 1980's, during which California earned a reputation as a haven for so-called "diploma mills", the Commission sponsored the Private Postsecondary and Vocational Reform Act of 1989. This law established the Council for Private Postsecondary and Vocational Education as the single State agency responsible for reviewing and approving private postsecondary institutions in California. A "sunset" review and evaluation of the Council was also required. This report contains the recommendations of that review. Among the most important findings were that the Commission concluded that the Act should be extended indefinitely beyond its original 1998 repeal date. This report also gives an overview of the original Act, reviews and evaluates its effectiveness, provides specific recommendations for future action relating to inter-agency cooperation, and continued oversight of for-profit institutions to assure quality and prevent fraud, and suggests revisions in the Act. (JLS)

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ED 403 803

...The Reform Act has restored the credibility of California's private postsecondary educational institutions...

THE EFFECTIVENESS OF CALIFORNIA'S OVERSIGHT OF PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

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OCTOBER 1995 COMMISSION REPORT 95-13

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Summary

For nearly 20 years, the California Postsecondary Education Commission has been actively involved in the development of a strong and vigorous private postsecondary and vocational education presence in California. The private postsecondary sector offers training and education programs that range from short-term, vocational courses to comprehensive, multi-year degree offerings, and presently serves some 412,000 students who are seeking an education beyond high school.

Following a period in the early and mid 1980's, during which California earned a somewhat tarnished reputation as a haven for so-called "diploma mills," the Commission sponsored legislation to create the Private Postsecondary and Vocational Education Reform Act of 1989. Operational the following year, this law established the Council for Private Postsecondary and Vocational Education (CPPVE) as the single State agency responsible for reviewing and approving private postsecondary institutions in California. Unless legislatively extended, the Reform Act is scheduled to be repealed on January 1, 1998.

The Private Postsecondary and Vocational Education Reform Act also required the California Postsecondary Education Commission to conduct a "sunset" review and evaluation of the effectiveness of the Reform Act and its implementation. This report responds to that mandate and contains recommendations that focus on the statutorily mandated components for review. This report also discusses areas where the Council on Private Postsecondary and Vocational Education can be strengthened and the statute improved. Information necessary for the review was gathered in cooperation with Council members, students, school owners, consumer advocates, accrediting agencies, independent auditors, State agencies, Council staff, and other interested parties.

Among the report's most important findings, the Commission concluded that the Private Postsecondary and Vocational Education Reform Act should be continued indefinitely, and that the Commission should review the law's implementation on a periodic basis. The Commission also recommends specific legislative revisions and administrative changes.

The Commission adopted this report at its October 30, 1995, meeting on recommendation of its Educational Policy and Programs Committee. Additional copies may be obtained from the Commission at 1303 J Street, Suite 500, Sacramento, California 95814-2938. The Commission may also be reached by telephone at (916) 445-7933.

THE EFFECTIVENESS OF CALIFORNIA'S OVERSIGHT OF PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION

A Report to the Legislature and the Governor in Response to Education Code Section 94345

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
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CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

COMMISSION REPORT 95-13
PUBLISHED OCTOBER 1995

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1 Historical Perspective and Legislative Mandate

BEGINNING with the California Postsecondary Education Commission's first report on private postsecondary education in 1976 and continuing up to this sunset review of existing law, the Commission has been actively involved in the development of a strong, vigorous and widely respected sector of private postsecondary and vocational education in California. In fact, during the period 1976 to 1990, the Commission issued ten separate reports on State oversight of private postsecondary education.

In 1989, the Commission determined that there was compelling evidence of a need for restructure and reform of the State law governing private postsecondary education as well as the agency responsible for its administration. Too many degrees and diplomas awarded by California's private postsecondary and vocational education institutions were of questionable integrity and value. The State had become known as the "diploma mill" capital of the world. Storefront operations flourished, enabling almost any individual who so desired to virtually "purchase" a degree of his or her choice. Additionally, California had become a haven for financial aid abuse in private proprietary schools and colleges. Some institutions were less than honest in their recruitment procedures, and would recruit students without regard to their ability to complete course work or benefit from the training offered. Often the promised instruction proved to be useless and students were not able to develop new or improved skills which would lead to employment. Institutions were enrolling students for the primary purpose of qualifying for federal financial aid. These realities prompted the Commission to sponsor Senate Bill 190 (Morgan) -- the Private Postsecondary and Vocational Education Reform Act of 1989. Additional background on the private postsecondary education community prior to 1989 is presented in Section 3 as context for the Commission's recommendations in this report.

When the legislation became effective on January 1, 1990, it established a single, independent agency known as the Council for Private Postsecondary and Vocational Education (CPPVE), and eliminated the Advisory Council for Private Postsecondary Educational Institutions in the California Department of Education. The responsibilities of the Private Postsecondary Education Division (PPED) were transferred to the new Council following a transition period of one year. In this bill, the Legislature also established a single approval process for all private schools, colleges and universities except those institutions accredited by the Western Association of Schools and Colleges (WASC). In addition, the legislation provided that

the new Council be funded from licensure fees and a federal appropriation for administering and approving veterans' educational programs.

Also in 1989, Assembly Bill 1402 -- the Maxine Waters School Reform and Student Protection Act of 1989 -- was passed and was scheduled to become effective on January 1, 1990. It was merged with SB 190 to form the Private Postsecondary and Vocational Education Reform Act of 1989. The Act was to have been repealed on January 1, 1997; however, subsequent legislation extended the sunset date to January 1, 1998. The law also called for the Commission to evaluate the effectiveness of the Act and its implementation by the new Council and to report to the Legislature by September 1, 1995. The specific factors to be included for review are found in Display 1 on the following page.

DISPLAY 1 Education Code Section 94345 Requiring the Commission to Report to the Legislature on the Effectiveness of the Private Postsecondary and Vocational Education Reform Act

Prior to September 1, 1995, the California Postsecondary Education Commission shall review and evaluate all of the following, and shall report to the Legislature on the results of this review and evaluation:

(a) The implementation of this chapter by the Council for Private Postsecondary and Vocational Education. (*The Commission's comments on this issue can be found on pages 19-24.*)

(b) The effectiveness of Section 94310 and 94311 in protecting the integrity of degrees and diplomas issued by private education institutions. (*The Commission's comments on this issue can be found on pages 9-16.*)

(c) The appropriateness of policies and actions by the council to delegate the responsibility for institutional regulation and oversight to a state board in the Department of Consumer Affairs, the Federal Aviation Administration, the state agency responsible for administering Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code, or the California Committee of Bar Examiners. (*The Commission's comments on this issue can be found on pages 24-26.*)

(d) The appropriateness of statutory provisions exempting colleges and universities accredited by the Western Association of Schools and Colleges from the approval provisions of this chapter, and the effectiveness of the Western Association of Schools and Colleges in responding to complaints pursuant to subdivision (d) of Section 94332. (*The Commission's comments on this issue can be found on pages 16-19.*)

(e) The effectiveness of this chapter in protecting students from misrepresentation and unfair practices and promoting the financial integrity of institutions operating in California. (*The Commission's comments on this issue can be found on pages 10-16.*)

(f) The desirability of revising existing statutes for the state funded student financial assistance programs to allow for participation by students choosing to attend any of the institutions approved under Section 94310. (*The Commission's comments on this issue can be found on page 26.*)

The commission shall present any recommendations for revising this chapter, as it deems appropriate.

2 Overview of the Law

THE PRIVATE Postsecondary and Vocational Education Reform Act is California's major statute for regulating and strengthening its more than two thousand privately operated postsecondary education institutions as well as out-of-state public and private institutions that have operations in California. This private sector in California educates approximately 412,400 students, some 108,200 enrolled in degree-granting institutions, and some 304,200 enrolled in non-degree-granting institutions. Non-degree-granting schools offer both State-licensing preparation courses and vocational training which closely approximates the occupational coursework offered by the public community colleges. The degree-granting institutions covered under this law typically offer academic degree programs. Display 2 below presents enrollment and degree statistics for all California institutions, both those regulated by the Council for Private Postsecondary and Vocational

DISPLAY 2 California Postsecondary Education, 1994

	Number of Schools	Enrollment	Degrees and Certificates Awarded
Council-Regulated			
Private, non-degree granting	1,800	304,200	161,000
Private, 2- and 4-year degree granting	250	100,600	18,200
Out-of-State degree granting	40	7,600	5,000
Non-Council-Regulated			
WASC Private 2- and 4-Year degree granting	112	212,000	48,144
California Community College	107	1,155,398	78,474
California State University	22	319,368	68,073
University of California	9	162,304	42,823
TOTAL	2,340	2,261,470[1]	421,714[1]

1. Because students may be enrolled in more than one postsecondary institution at one time, this figure is not an unduplicated count of students or degrees and certificates awarded.

Sources: Council for Private Postsecondary and Vocational Education and California Postsecondary Education Commission.

Education and those outside of the Council's purview.

According to the Council for Private Postsecondary and Vocational Education's *1993 Annual Report*:

> California's private postsecondary schools comprise the largest private postsecondary sector in the United States, offering instructional programs that prepare graduates for many industries. According to Department of Labor statistics, the greatest job growth will be in the areas of business, health, and personal services industries. The private postsecondary educational sector prepares a significant portion of these workers -- including future secretaries, computer operators and programmers, medical assistants and cosmetologists.
>
> Given the state's current crisis in funding for education, Californians must utilize educational institutions that provide training that is cost-effective to the state (i.e., that is non-tax supported), training that is relevant to the needs of today's workforce, and retraining that is accessible to a workforce retooling for California's future. Private postsecondary schools make a significant contribution to California's economy, not only in terms of tax dollars paid to the State, but also in terms of the number of people trained who eventually become employed in local and regional markets.

Major components of the Reform Act

1. Administration of the Reform Act: The Act is administered by the Council for Private Postsecondary and Vocational Education. This Council has responsibility for approving and monitoring private postsecondary institutions and for developing State policies for private postsecondary education in California. The Council is comprised of 15 voting members, including six representatives of private postsecondary institutions (three from vocational schools, two from in-state degree-granting institutions, and one from out-of-state degree-granting institutions), six representatives of the public, and one representative each from the Student Aid Commission, the Superintendent of Public Instruction and the Secretary of State and Consumer Services. The 12 institutional representatives and public members are appointed by the Governor (six), the Speaker of the Assembly (three), and the Senate Rules Committee (three). Five additional nonvoting members represent the Attorney General's Office, the Department of Employment Development, the California Postsecondary Education Commission, the Youth, Adult, and Alternative Educational Services Division of the State Department of Education, and the Chancellor of the California Community Colleges.

2. Approval of non-degree-granting educational institutions: All private non-degree-granting educational institutions are required to comply with a common set of standards and requirements. Council-approved programs provide training for a broad range of occupations, including business-related jobs such as secretary or computer programmer, health care professionals such as medical and dental

assistants, and personal services careers such as barbers and cosmetologists. The Council conducts an assessment of institutional operations to determine if the quality and content of each course or program of instruction, training, or study may reasonably be expected to achieve the objective for which it is offered. Areas to be assessed include: (1) space and equipment requirements, (2) faculty qualifications, (3) specific disclosure of information about the course and occupations to which the course leads, (4) student performance records, (5) adequate health and safety standards, and (6) financial responsibility and stability requirements. In 1994, Council staff conducted approximately 250 site reviews for initial approval to operate in the State and 1,200 for reapproval to continue to function in California.

3. Approval of degree-granting institutions: All private degree-granting colleges and universities are required to comply with a common set of standards and requirements. The Council uses visitation teams to conduct a review of each degree program offered by an institution and completes a qualitative assessment of the following programmatic aspects: (1) curricula, (2) instruction, (3) faculty, (4) physical facilities, (5) administrative personnel, (6) admissions standards, (7) financial resources, (8) governance, (9) institutional purpose and mission, (10) degrees offered, (11) graduation requirements, (12) financial aid policies and practices, (13) library, (14) student services, (15) ethical principles and practices, and (16) financial stability.

In 1994, visitation teams conducted 30 on-site reviews for initial approval and 90 on-site reviews for reapproval of degree-granting institutions. Over 800 programs leading to degrees were included in these visits.

All degree-granting institutions are required to comply with this statute with the exception of: (a) a WASC-accredited institution which is either incorporated as a nonprofit public benefit corporation or exclusively confers degrees upon the completion of a course of study of two or more years (some 200 institutions fall into this category); (b) a religious institution which offers degrees in areas pertaining to its religious beliefs (some 70 institutions fall into this category); or (c) an institution which complies with certain criteria and is accredited by an accrediting agency recognized by the U.S. Department of Education (some ten institutions fall into this category).

4. Administration of the Student Tuition Recovery Fund: The Student Tuition Recovery Fund (STRF) was created in 1978 by the Legislature as a consumer protection provision. The purpose of the fund is to relieve or mitigate enrollment fee losses suffered by students enrolled in private postsecondary institutions. A student may be eligible for a refund from the STRF under the following conditions: a school closes prior to the student's completion of his or her education; a breach of the enrollment agreement occurs; there is a judgment against the school; or a student has been denied a refund. To maintain the STRF, the Council assesses

institutions a proportional amount of the course cost for each student. The STRF balance as of March 31, 1995, was approximately $1.2 million.

5. Assessment of licensure fees: The Council has the authority, subject to legislative oversight, to adopt and establish a fee schedule for all institutions approved under the Act. The fee schedule is expected to provide an adequate source of funding for the Council to effectively implement the law.

6. Support for administration of the Act: The Council for Private Postsecondary and Vocational Education is self-funded through the assessment of institutional fees and through federal monies reimbursed by the U.S. Veterans Administration for the approval of programs to train veterans and other eligible persons.

7. Approval of Education Programs for Veterans: The Council was designated in 1991 as the State Approving Agency (SAA) for the administration and approval of resident veterans' educational programs. This responsibility includes approval of courses offered by public and private postsecondary vocational and degree-granting institutions to veterans and other eligible persons. Council approval is required in order for veterans to be eligible for federal financial aid. In approving programs, the Council must ascertain that the applying educational institutions comply with federal regulations. In visiting the more than 500 schools approved for veterans, the Council found that all of the institutions visited were either in full compliance or were able to come into compliance through minor modifications of their operations.

3 Review and Evaluation of the Act

THE GENESIS of the Reform Act grew out of the need *to ensure student protection at the postsecondary level*, a premise which guides this review and evaluation. Ensuring student protection is the rationale, the purpose, and the major focus upon which the following recommendations are based.

The following is a review and assessment of both the Act and its administration by the Council for Private Postsecondary and Vocational Education. This section presents an analysis of each of the six areas designated in the Act for review by the Commission, although not in the specific order identified in the law. Because the law required the Commission to review both the Act and its implementation by the Council, the Commission's recommendations include proposals for both statutory revisions as well as administrative adjustments. Further, because the major question is whether the Act should be continued, the Commission's review begins by addressing the effectiveness of the Reform Act both in protecting the integrity of degrees and diplomas and in protecting students from misrepresentation and unfair practices.

I. The effectiveness of the Reform Act in protecting the integrity of degrees and diplomas

Integrity of California degrees and diplomas

Prior to passage of the Act, some degrees and diplomas awarded by California's private postsecondary and vocational education institutions were of questionable integrity and value. However, implementation of the Reform Act has enabled the State to make tremendous strides in restoring the credibility and integrity of degrees and diplomas awarded by private postsecondary institutions. The law has benefited the private school industry as well as students and consumers. Once known as the "diploma mill" capital of the world, and a haven for financial aid abuse in private proprietary schools and colleges, the Commission finds that California now boasts one of the most rigorous regulatory agencies in the nation.

The Reform Act provides for a balanced recognition of both student and institutional protections and rights. Since the passage of the Act, the number of complaints filed with the State regarding the quality of degree-granting educational institutions has declined significantly and news media reports of California "diploma mill" operations have essentially ceased. A number of institutions with questionable reputations have chosen to close their doors and 159 have actually been closed as the result of Council action. One official from another state's office of educational policy and planning summarized the change as follows, "Cali-

fornians used to have to hang their heads in embarrassment but that no longer is the case."

It should be noted, however, that over the past few years a number of factors have contributed to the closure or relocation of institutions, including federal initiatives which impose greater requirements on institutions, reforms and changes in accrediting standards, and economic difficulties driven by the recession in California. The overwhelming majority of school closures in the recent past are a function of forces external to the Council's activities.

II. The effectiveness of the Reform Act in protecting students from misrepresentation and unfair practices and promoting the financial integrity of institutions

Consumer protection

The Reform Act is rigorous in its consumer protection requirements for all private institutions in California. The Commission has found that the Council now enforces some of the most aggressive consumer and student protection provisions in the nation -- protections against fraud, misrepresentation and other practices that lead to improper use of funds paid for tuition. Schools approved by the Council are now required to provide to each prospective student a school performance fact sheet disclosing completion and placement rates for program participants as well as related employment information. In addition, schools must submit an annual report to the Council which includes information about the school's programs, student population, and financial standing.

As a condition of maintaining its approval to operate in the State, an institution must, among other requirements, pay timely refunds and provide the educational experience the institution represented it would provide. In fact, consumer complaints decreased more than 40 percent from 1992 to 1993 -- the year the regulations were fully implemented for non-degree granting schools. This is due not only to closure of institutions which did not meet the standards, but also to the Council's increased ability to respond rapidly to the first complaint about an institution and conduct an investigation before repeated or similar complaints occur.

Financial integrity

The Commission finds that the financial responsibility provisions of the Reform Act have resulted in ensuring the financial integrity of approved institutions. Among other requirements, the law requires an institution to have sufficient assets to provide the educational services promised in its official publications and to comply with the other requirements of the Reform Act. In addition, institutions may not have operating losses in the two most recent years and must maintain a ratio of current assets to liabilities of 1:25 to 1.

Recommendation 1

Because the Reform Act has been effective in improving the integrity of degrees and diplomas and because its rigorous consumer provisions have been

protecting students from misrepresentation and unfair practices, the Commission recommends that the Act be continued indefinitely and that the California Postsecondary Education Commission review the implementation of the law on a periodic basis.

While the State's Reform Act has improved both (a) quality and integrity of degrees and diplomas, and (b) student consumer protections, the Commission recommends additional adjustments and revisions to further strengthen the law. In this section of the report, the Commission outlines those areas in which it believes the law could be strengthened and clarified.

Structural reorganization of the Act

As noted in the introduction, the Reform Act is the result of two separate pieces of State legislation which have created a new level of student protection in private postsecondary education and helped restore the integrity of California's private postsecondary degrees and diplomas. However, because the Reform Act was passed in two pieces, the law is often difficult to understand and follow. For example, provisions relating to non-degree vocational education programs are scattered throughout the Act and are interspersed with provisions relating to degree programs. Similarly, provisions about certain requirements, such as the contents of an institution's catalog, are also scattered throughout the law and are not contained within a single section or provision. The law is also difficult to interpret because its structure prohibits one from easily identifying those provisions with which a particular type of institution or program must comply.

The Commission assumes that everyone -- school owners, students, Council staff, and the general public -- would benefit from a restructuring of the provisions of the Reform Act such that it is clearer and more understandable. In making this statement, the Commission is not advocating that the substantive provisions of the Reform Act be amended, but rather that the format and structure be reorganized to clarify the provisions that apply to each type of program and institution.

Recommendation 2 **The Commission encourages the Council to develop a legislative proposal to restructure the Act with the limited objective of clarifying the law for all parties.**

Enforcement of the Reform Act on non-approved institutions

While every private postsecondary education institution operating in the State must be approved by the Council unless exempted, the Council has estimated that there may be up to 1,000 institutions that are operating without its approval. Unfortunately, since the Council has no enforcement powers or punitive measures with which to assess violators of the law short of requesting the local District Attorney to prosecute the violator, these non-approved institutions often continue to do business, without reviews of the quality of their programs, without protections for enrolled students, and in violation of this act. Further, this situation tends to en-

courage those schools currently approved by the Council to question renewing their approval since no sanctions exist for not complying with the law.

The Commission stipulates that it is essential for all private postsecondary education institutions to comply with the requirements of the Reform Act.

Recommendation 3 **The Commission recommends that the Reform Act be amended to provide the Council with the authority and other resources necessary to ensure that all private postsecondary education institutions offering instruction in the State operate in compliance with the Reform Act.**

Consistent standards for degree and non-degree vocational education programs

Increasingly, institutions offering vocational education programs -- those designed to lead to employment in a specific occupation -- are being restructured such that the institution can award a degree rather than a certificate or diploma upon the student's successful completion of the program. Under the current Reform Act, by restructuring the non-degree vocational programs into degree programs, the institution is subject to less stringent oversight and accountability provisions. For example, under the current Act, non-degree vocational education programs operated by for-profit institutions are required to have a minimum 60 percent completion rate, a 70 percent job placement rate, and provide students a 100 percent pro-rata refund. These provisions are contained in Article 2.5 of the Reform Act and are commonly referred to as the "2.5 Provisions." However, the current Act does not require degree-granting vocational education programs to have specified graduation or job placement rates, and only requires those institutions to provide students with a 60 percent pro-rata refund.

Consistent standards for profit and non-profit vocational education programs

In addition, increasing numbers of institutions are choosing to reestablish themselves as nonprofit entities because this status enables them to enjoy a reduced level of oversight and accountability when compared to their profit-making vocational education counterparts. For example, the current Act does not require *non-profit* vocational education institutions to have specified graduation or job placement rates, and only requires that they provide students with a 60 percent pro-rata refund, while vocational education programs operated by *for-profit* institutions are subject to the Article 2.5 provisions described above. Further, since institutions can easily manipulate their financial records to conform to the requirements of a nonprofit entity, these institutions accrue no costs from changing their financial status, but acquire significant benefit from the reduced regulatory provisions associated with their new nonprofit status.

The Commission urges that the standards required of vocational education programs be consistent for all such programs, regardless of whether they award a degree, certificate, or diploma, and regardless of whether they are offered by a profit or non-profit institution.

Recommendation 4 **The Commission recommends that the Reform Act be amended to require that all private vocational education programs -- both degree and non-degree programs operated by both profit and non-profit institutions -- comply with the provisions of Education Code Section 94311 and Article 2.5 of the Act.**

Protection for consumers of instruction offered by institutions outside of the State

Passage of the Reform Act resulted in a number of private postsecondary education institutions choosing to discontinue their operations or, alternatively, move their educational enterprises to other states with fewer regulatory requirements for private postsecondary institutions. However, in many cases, the movement of these institutions to other states has not limited their educational activities in California. Many continue to enroll students and award degrees to individuals residing within California through correspondence courses, electronic media, and other forms of distance learning. The current Reform Act does not clearly enable the State to regulate these institutions since they are located outside of the State. Yet, despite the location of their physical operations, the activities of such schools directly impact California residents who choose to enroll in their programs. Further, while the Western Interstate Commission for Higher Education has adopted "Standards of Good Practice" for instruction delivered electronically across State lines, such standards do not ensure that the consumers of such instruction receive protections comparable to those required of in-state institutions.

Recommendation 5 **The Commission recommends that the Reform Act be amended to protect all consumers of private postsecondary education residing in California, regardless of whether the institution offering the instruction is located within or outside the State's boundaries. As such, the Commission encourages the Council to explore collaboration with regulatory agencies in other states for the purpose of ensuring consumer protection in postsecondary education in California.**

Out-of-state operations of California-approved institutions

Increasingly, institutions with authority to operate in California are opening additional educational sites outside the State -- both within the United States and internationally. These institutions grant degrees and diplomas to students at additional locations, often with the students assuming that the programs and degrees offered at these sites have also been approved by the State of California. While the Reform Act requires the Council to review all operations of an institution, both within and outside of California, the *regulations* implementing the Act can be construed as limiting the definition of "all operations" to only the institution's California operations -- not necessarily those outside of California. Thus, to date, the Council has not conducted any out-of-state institutional reviews. Therefore, many individuals outside of California are enrolling in California-approved private postsecondary institutions assuming that the programs and degrees offered by them at the out-of-state sites have also been reviewed and approved by the State of California.

The Commission expects that any degree or certificate awarded by a California-approved institution should have integrity and meet minimum standards of quality, regardless of whether that degree is being awarded to a student who completes the educational program in California or outside the State.

Recommendation 6 **The Commission recommends that the appropriate regulations be amended to require that all private institutional operations -- both those within and outside the State -- be reviewed by the Council prior to an institution receiving approval to operate as a California-approved institution.**

Clarification of the minimum level of quality needed for program approval

As previously stated, the Reform Act created a new level of review for degree-granting private postsecondary education institutions. The Act outlines 15 different areas which must be assessed by a review team to determine whether a degree-granting institution has the capability of delivering a quality educational program. However, the Reform Act does not contain any indication of the minimum requirements in these 15 areas, but rather leaves that decision open to the judgment of the qualitative review teams impaneled by the Council. Many institutional representatives expressed concern and frustration over the subjective nature of this process and suggested that the law should explicitly state the minimum level of performance or achievement necessary in each of these 15 areas in order to obtain State approval to operate.

The Commission understands and appreciates the difficulty associated with attempting to define minimum levels of educational and institutional quality. The Commission also appreciates that it is impossible to document every form of acceptable and unacceptable institutional behavior. Further, professionals -- both those employed by the Council and those who volunteer to conduct the qualitative reviews -- should have latitude to make professional judgments regarding the capacity of an institution to deliver on its promises. Yet, the Commission also recognizes that institutions and the general public would benefit from understanding the minimum requirements necessary for institutional approval.

Recommendation 7 **The Commission encourages the Council to engage in a broad-based discussion to better define the requirements necessary for obtaining approval to operate as a private degree-granting institution and to use these minimum requirements to make program approval decisions.**

Relationship between standards for State approval and WASC accreditation

The Reform Act contains the following provision ". . . the minimum standards for approval for degree-granting institutions established in Section 94310 shall not exceed the accreditation standards utilized by the Western Association of Schools and Colleges." In the Council's efforts to implement the law, this provision has caused some difficulty. Nearly all of the accreditation standards used by the WASC represent broad, general statements about good institutional operating practices;

none contain specific quantifiable minimums. As such, when the Council developed regulations that contained quantifiable requirements, such as those for student refunds, many private postsecondary institutional representatives argued that the Council's proposed approval standards exceeded the WASC accreditation standards. Despite the different interpretations of the law, the Council's proposed regulations were ultimately approved by the State's administrative law agency.

While the issue is less pressing now, the Commission recognizes that the previously quoted language served only to postpone and make implementation of the Reform Act more difficult. Further, the Commission does not agree that the State's approval requirements should necessarily be based on WASC accreditation standards. Accreditation and the State approval process serve fundamentally different purposes. In the case of the former, the purpose is to ensure a minimum level of educational quality; in the case of the latter, the purpose is not only to ensure quality but also to provide adequate levels of student protection. Thus, the standards of one cannot and should not be substituted for the standards of the other.

Recommendation 8 **The Commission recommends that the Reform Act be amended to delete the requirement that the Council's approval standards not exceed WASC accreditation standards because these standards serve different purposes.**

Qualitative review of non-degree education programs

As previously noted, while peer reviews of degree programs include a qualitative assessment of the institution's instructional programs, the approval review conducted for non-degree programs is limited to a staff review of the institution's compliance with a check list of items. No in-depth review of the institution's instructional programs is conducted and the quality of the program is assumed to be sufficient if the institution has a minimum 60 percent completion rate, a 70 percent job placement rate and meets the institutional requirements for approval.

The Commission has concerns about relying *exclusively* upon these minimal requirements as indicators of quality particularly since some of the statistics are self-reported and not regularly verified through an audit process by the Council.

Recommendation 9 **The Commission encourages the Council to explore ways in which to incorporate a qualitative review of all private vocational education programs into the requirements by which institutions receive approval to operate in the State. In addition, the Commission also encourages the Council to develop a process for verifying the accuracy of the institution's self-reported completion and job placement statistics.**

Approval of out-of-state regionally accredited institutions

The Reform Act established separate approval requirements for out-of-state regionally accredited colleges and universities. To date, the Council has not begun to conduct reviews of these institutions under the requirements of the revised law.

The Commission questions the need for different approval requirements provided

in the Reform Act for out-of-state institutions. However, since the Council has not yet applied the new requirements, the Commission cannot, at this time, comment as to whether the law is appropriately protecting the integrity of degrees awarded by these institutions. The Commission plans to reexamine this question after the Council has had an opportunity to review these institutions under the provisions of the Act.

It should be noted that the regulations pertaining to the approval of out-of-state institutions were officially approved on July 17, 1995.

III. The appropriateness of the exemptions to specified institutions in the Reform Act

This section discusses the following three issues: (1) the appropriateness of WASC-accredited institutions being exempt from the Reform Act and the effectiveness of WASC in responding to complaints, (2) the exemption from the Reform Act provided for degree programs offered by religious institutions, and (3) the exemption added to the Reform Act after its initial passage that exempts certain institutions which are accredited by nationally recognized accrediting agencies.

WASC exemption

The Reform Act, as passed in 1989, exempted non-public institutions accredited by the Western Association of Schools and Colleges (WASC) from nearly all provisions of the Act provided that the institution is either (1) incorporated as a non-profit public benefit corporation and is not managed or administered by any entity for profit, or (2) exclusively confers degrees upon the completion of a course of study of two or more years.

In reviewing the appropriateness of the exemption, Commission staff solicited public comment on the issue, reviewed the WASC accreditation standards in comparison to those required of the Council-approved institutions, reviewed complaints received by the Council about WASC-accredited colleges and universities, examined advertisements about WASC-accredited institutions, and analyzed information on the federal cohort default rates of all private WASC-accredited institutions.

In interviewing representatives from Council-approved institutions, staff found a uniformity of opinion about the WASC exemption. Generally speaking, these representatives felt that it was inappropriate to entirely exempt WASC-accredited institutions from the requirements of the Act and further that all institutions should be held accountable to the same standards. Many added that even the State's public colleges and universities should be held to the standards required of Council-approved institutions.

Representatives from WASC-accredited institutions did not agree with these statements, noting that the exemption is appropriate since they are engaged in legitimate, recognized, and widely respected educational endeavors. Further, they noted that very few of their students have complained about the instruction and other

services they provide. As a result, they concluded that, since they are providing quality educational opportunities, there was no compelling need to add to their regulatory burden.

Based upon the Commission staff's analysis of the factors described above, in general, the Commission finds that the WASC-accredited private and independent colleges and universities are providing students with a high quality educational experience. However, the Commission has concerns regarding a small number of the private WASC-accredited institutions. The Commission's concerns center on their student loan default rates and possible future State liability resulting from these institutions -- issues that are discussed below.

Student loan default rates: While the overwhelming majority -- more than 85 percent -- of WASC-accredited private and independent colleges and universities have student loan cohort default rates under 20 percent (the majority are under 10 percent), some 16 WASC-accredited private institutions have rates in excess of 20 percent. An institution with a cohort default rate in excess of 20 percent means that more than one of every five students borrowing money to attend the institution through the federal guaranteed student loan program fails to repay their loan. While there are many reasons for students defaulting on their loans, among the factors over which the institution has a significant amount of control are the following: (1) the student did not receive the education promised or advertised by the institution, (2) the student did not acquire the skills from the educational program necessary for obtaining paid employment, or (3) no job opportunities exist in the field in which the student was trained. Thus, an institution with a high student loan cohort default rate may -- though not necessarily -- be experiencing difficulties in delivering a high quality educational program to its students. In essence, a high cohort default rate serves as an indicator of *potential* problems at postsecondary education institutions. Therefore, the Commission has concerns about the 16 WASC-accredited private institutions with cohort default rates in excess of 20 percent, especially since the State has no ability to ascertain whether issues of quality currently do or do not exist at these institutions.

State liability incurred as a result of the high default rate of these institutions: In 1993, the federal government passed, as part of the Omnibus Budget Reconciliation Act of that year, a provision known as "cost sharing" that requires states to share in the costs of federally defaulted student loans. Specifically, the law requires states to pay a portion of the costs of defaulted loans for those institutions that have a federal student loan cohort default rate in excess of 20 percent. Thus, as a result of these federal "cost sharing" provisions, California will soon be incurring a liability for a portion of the loan default costs for all postsecondary education institutions with a cohort default rate in excess of 20 percent -- including the 16 private WASC-accredited colleges and universities over which the State currently has no review authority.

The aforementioned factors -- (1) potential problems at these institutions as indicated by their high student loan cohort default rates, and (2) incurrence of a State fiscal liability because of the default rates of these institutions -- result in the following recommendation.

Recommendation 10 **The Commission recommends that WASC-accredited private institutions with a federal cohort default rate in excess of 20 percent no longer be exempted from oversight by the Council and that the Reform Act be amended to require that these institutions comply with all requirements of the Act.**

Effectiveness of WASC in responding to complaints

The statute directing the Commission's review of the Reform Act also requires the Commission to evaluate the effectiveness of WASC in responding to complaints forwarded to it by the Council. Because of the nature of complaints as well as the lack of complete information regarding complaints filed with the Council about WASC-accredited institutions, the Commission is unable at this time to comment on the effectiveness of WASC in resolving complaints forwarded to it by the Council. The Commission will attempt to address this question as it continues to explore accreditation and State licensure issues.

Continuation of the exemption for WASC institutions with cohort default rates below 20 percent

Because the Commission is not aware of significant problems and complaints about the remaining private WASC-accredited institutions, the Commission does not oppose the continuation of the WASC exemption at this time. However, the Commission has concerns regarding the level of consumer protection available to students at WASC-accredited institutions. The Commission believes that all students should enjoy the same level of consumer protection regardless of which institution they attend. These protections include a fair and equitable student refund policy, an unambiguous process for the resolution of student complaints, public disclosure about the performance of the institution and its students, and honesty in all recruitment and advertising materials. Therefore, the Commission will include in its next review of these issues a careful examination of the level of consumer protection afforded to students at WASC-accredited institutions to ensure that they are as rigorous as those provided by their Council-approved counterparts.

Recommendation 11 **The Commission urges both the Junior and Senior Accrediting Commissions of WASC to carefully review their standards of accreditation to ensure that the level of consumer protection -- including the adequacy and fairness of complaint processes -- at their member institutions is at least as rigorous as those protections provided to students attending Council-approved institutions.**

Exemption for religious or doctrine-based education degree programs

The current Reform Act contains a provision that exempts nonprofit religious organizations offering degrees and diplomas in the beliefs and practices of religion from oversight by the State. However, a number of the exempted religious-based organizations are now offering educational degrees that are not strictly related to religious beliefs and practices and are asserting that those degree programs are also exempt from State oversight. The Commission believes that only those degree programs limited to the teaching of the beliefs of a specific religion should be exempted.

Recommendation 12 **The Commission recommends that the Council seek amendment to the Reform Act or tighten the appropriate regulations to clarify that only those degree programs exclusively involving religious teachings and beliefs be exempted from State oversight.**

Exemption for specific nationally accredited institutions

Since passage of the original Reform Act, an additional exemption to a majority of the requirements of the Act has been added for nationally accredited institutions that meet certain requirements as outlined in Education Code Section 94303(2). These requirements include operating as a non-profit entity, exclusively conferring degrees upon completion of a course of study of two or more years, and having an average cohort default rate on federally guaranteed student loans for the most recent three years that does not exceed 10 percent.

The Commission opposed this exemption when originally debated by the Legislature on the grounds that the nationally recognized accrediting agencies' policies related to consumer protection and educational quality were not as stringent as those provided to students through the current Reform Act. The Commission's position and finding on this matter have not changed.

Recommendation 13 **The Commission recommends that the current Reform Act be amended to eliminate the exemption to the previously specified nationally accredited institutions provided in Education Code Section 94303(2).**

IV. The implementation of this chapter by the Council

While still in the process of fully developing some of its programs, California's Council for Private Postsecondary and Vocational Education (CPPVE) and administrative staff have made significant headway in the past four years in fulfilling the mission of the Reform Act. It has several significant accomplishments during its four years of operation. As defined in Section 94304(a) of the Education Code:

> The council shall have the responsibility of approving and regulating private postsecondary educational institutions and for developing state policies for private postsecondary and vocational education in California. The council shall represent the private postsecondary educational institutions

in all state level planning and policy discussions about postsecondary and vocational education, and shall have as its objective the development of a strong, vigorous, and widely respected sector of private postsecondary and vocational education.

Early years of Council operations

In 1991, the year the Council was created and began oversight responsibilities, there was no data base, no accurate listing of schools, no procedures to implement the statute, no regulations in place, and delinquent fees totalling $900,000. Prior to the Reform Act, the Private Postsecondary Education Division had delegated approval of vocational institutions to independent accrediting agencies and had not established any compliance requirements. In the year following passage of the Act -- a transition year in which the Private Postsecondary Education Division of the State Department of Education phased out its administrative function -- little was accomplished: no policies or procedures were developed, no regulations were drafted, and little training of staff was completed. Staff was provided to the Council by the Department of Education, and many of those staff members had expectations that differed from those of management with respect to the role of the new Council. Personnel practices prescribed by the State often made it difficult to hire staff with needed expertise. Initial Council personnel largely consisted of support staff, analysts, and consultants who had little training in non-programmatic functions such as personnel, business, accounting or budgetary procedures, data processing, information systems management, or legal issues.

In the past two years, the Council has become stronger by increasing its level of expertise and experience and developing a comprehensive data base. Rigorous oversight and regulatory responsibilities have demanded that Council members and staff develop a clear understanding about their respective roles and responsibilities as well as their aggressive implementation.

Promulgation of Regulations

One of the Council's primary responsibilities was to promulgate and adopt regulations through the Office of Administrative Law for three different categories of private educational institutions: vocational, degree-granting, and out-of-state institutions. Regulations for vocational schools were officially adopted in 1992. Regulations for degree-granting schools were adopted in 1994, and regulations governing out-of-state degree granting schools were approved in July 1995. The promulgation of each set of regulations -- although a long and time-consuming process -- provided a firm basis from which the Council can now move forward.

However, in conducting its fact-finding interviews, Commission staff has discovered several issues of concern regarding both the law and the Council's administration and implementation of the law.

Structure of the Council

A major issue which surfaced often in the Commission's review was the structure of the Council, including both its size and composition.

Size: The Council presently consists of 20 members: six institutional representatives, six public representatives and one representative each from the Student Aid Commission, the Superintendent of Public Instruction and the Secretary of State and Consumer Services, all voting members. In addition, the five nonvoting members include representatives from the Attorney General's Office, the Employment Development Department, the California Postsecondary Education Commission, the Youth, Adult, and Alternative Educational Services Division of the State Department of Education, and the California Community Colleges. The Legislature, in defining the composition of the Council, wanted to ensure that there was broad representation in the Council's formative years. Now that the agency has developed an established presence in the State and regulations have been adopted, the Council should move forward in its implementation role. Since governing bodies of this size present difficulties in scheduling, meeting logistics, and excessive costs, the Commission believes that the size of the Council should be reduced.

Composition: Representation on the Council has historically been an area of much discussion and concern. In examining the composition of the council, a strong potential exists for domination by special interest groups through aggressive efforts on behalf of schools being considered for approval. Echoing this concern, the State Higher Education Executive Officers Association, in its 1991 report, *The Methods and Effectiveness of State Licensing of Proprietary Institutions*, comments on the advantages and disadvantages of various governance structures. The report highlights the Council as an example of a typical licensure board model of governance. However, the report states that:

> The central disadvantage of this model is that it runs the risk of being dominated by the schools. While school owner representation on a licensure board is possible, over-representation could ultimately harm the effectiveness of the agency. Any governing body that is controlled by the governed runs a significant risk of losing its credibility and effectiveness.

In order to serve the best interests of students, institutions and the public, the Commission believes that the Council should consist of a majority of public members.

Recommendation 14 **The Commission recommends that the Legislature amend the Private Postsecondary and Vocational Education Reform Act to reduce the number of seats on the Council and establish that a majority of those seats be held by public members.**

Council voting requirements

Conversations with Council members and school owners alike indicate strong support for a procedural change which would result in more productive Council meetings. At present, no motion can be passed without a favorable vote by at least eight members -- a majority of the full Council voting membership. Often, there are no more than 10 or 11 members present, a situation which makes it difficult to obtain a legally binding vote on motions.

Recommendation 15 **In the interest of improving the Council's ability to conduct business in a timely manner, the Commission recommends that the Council initiate a procedural change in the voting requirement such that, when there is a quorum, a motion is passed by a simple majority of members present.**

Process for approving institutions to operate

The Council recently implemented a new procedure for approval of degree-granting institutions which delegates the approval of these schools to the Executive Director and appropriate staff. This procedure should ensure a smooth and efficient approval process and should result in less political pressure being brought to bear on individual Council members by special interest groups. In the event of a recommendation for disapproval, the institution may appeal to an Administrative Law Judge who makes a recommendation to the full Council. In this way, the Council has the final responsibility for making determinations.

Recommendation 16 **The Commission encourages the Council to continue the practice of delegating initial approval decisions to staff with ultimate responsibility for final determinations reserved for the Council.**

Relations with schools

Council staff is now considerably more efficient in responding to institutional requests for service (i.e. processing applications, cashing checks, sending bills, developing and sending forms) than it was in the early years following passage of the Act. However, the Council's relationships with schools continues to be of concern in two areas. First, at times, institutions feel disconnected from the activities of the Council in terms of such matters as revisions in interpretation of regulations, new requirements, changes in deadlines and other information that affects them either directly or indirectly.

The second area of institutional concern relates to inconsistency on the part of central office staff in responding to telephone inquiries. Conversations with school owners reflected frustration and confusion due to the variation in responses to their questions from different staff members. Now that all regulations are in place, the Council should focus on ensuring that staff respond consistently to institutional inquiries.

Recommendation 17 **The Commission recommends that the Council for Private Postsecondary and Vocational Education strive to improve its communications with the institutions over which it has oversight.**

Training for visitation teams

The success of the site-review process for degree-granting institutions depends largely on the development of a pool of potential review team members. The Commission commends the Council on its efforts to recruit team members and it notes that more than 600 individuals have volunteered to be included in the Council's pool of reviewers. Existing law states:

> The visiting committee shall include educators trained in the academic disciplines of educational programs offered by the institution, and any other person with expertise in the areas listed in Section 94310(b) of the Code, from degree-granting institutions legally operating in this state . . .

Review teams must include experts in specific academic content areas and in administrative services. Participants are selected from both Council-approved schools and those accredited by the Western Association for Schools and Colleges. Expert practitioners, such as practicing lawyers and psychiatrists, also may be part of teams reviewing programs in their respective fields.

In gathering information for this review, the Commission heard repeated concerns about the adequacy of training and preparation given the members of the teams prior to conducting visitations. No matter how well-versed in his or her particular domain, the Commission believes that each member of a visitation team should receive training on the specific program elements to be reviewed.

Recommendation 18 **The Commission recommends that the Council for Private Postsecondary and Vocational Education examine ways to provide an increased level of training for team members to ensure the integrity of visitations to degree-granting institutions.**

Consistency in interpretation of law and regulations

A significant issue with which every regulatory agency must grapple is the appropriate balance between consistency and adherence to a code of criteria, on the one hand, and the flexibility to address particular aspects of schools which have vastly different characteristics and needs, on the other hand. The Council has been criticized for overreaching in both directions. Some observers feel staff is too rigid in interpreting the law; others feel staff is inconsistent in its oversight activities. The Commission found Council staff to be cognizant of the dilemma and conscientious in their efforts to achieve fairness and balance. To this end, the Commission expects that staff would benefit from an ongoing training program to enhance professional expertise and ensure greater understanding of the law.

Recommendation 19 **The Commission recommends that the Council provide training opportunities for all staff with the goal of greater consistency in interpretating the law and regulations and enhanced flexibility to make professional judgments in exceptional circumstances.**

Procedures for school closures and appeals

An area of increasing concern to the Council is one that results from its successful oversight responsibilities. The Council takes action to close schools or deny applications to operate for such reasons as fraudulent business practices, misrepresentation in advertising or recruiting, failure to meet the financial requirements outlined in statute, or consistent failure to refund student tuition when students are entitled to one. The time needed to document, investigate and process liti-

gious situations is becoming increasingly time-consuming and can take up to three years. Meanwhile, the school continues to operate and students continue to be affected, sometimes adversely. The Commission believes that every effort should be made to streamline the procedures involved in closing schools, while maintaining necessary and appropriate legal protections during investigations.

Recommendation 26 **The Commission recommends that the Council make every effort to identify ways of streamlining its school closure and appeals process.**

The Council's role at the statewide policy level

In implementing this law, the Council has fostered and adopted consumer protection measures for over 400,000 students -- the largest private sector of postsecondary education in the United States -- and has ensured a minimum level of program quality in the more than 2,000 approved institutions in California. Another aspect of the Council's mission is to establish "the effective integration of private postsecondary education into all aspects of California's educational system." While such integration is more difficult to define and accomplish, the Council has taken several steps to begin this integrative process. An Articulation Task Force has been set up to explore intersegmental issues in an effort to help the private postsecondary sector gain recognition as a full partner in the State's system of postsecondary education. The Council has been included in the Assembly Higher Education Committee's meetings on the Master Plan as well as its hearings and discussions on workforce training issues. In addition, the Senate Higher Education Conference Task Force has invited the Council to participate in planning for the 1994 California Conference on Higher Education.

V. The appropriateness of delegating oversight responsibility to State boards and agencies

The Commission believes that the delegation of authority to oversee and regulate private postsecondary education institutions as prescribed in current law is a reasonable and efficient way to share the jurisdictional duties of ensuring adequate oversight of specified occupational training programs. Prior to the California Postsecondary and Vocational Education Reform Act, special career-oriented institutions within the jurisdiction of the Department of Consumer Affairs were reviewed for oversight by their respective boards: barber schools by the Board of Barber Examiners, schools of cosmetology by the Board of Cosmetology, schools of acupuncture by the Board of Medical Quality Assurance, and schools training vocational nurses and psychiatric technicians by the Board of Vocational Nurses and Psychiatric Technicians. In all of these instances, the standards and conditions for institutional review and oversight were set by the boards. Once the boards had certified that the institutions had been satisfactorily reviewed, institutional licenses to operate were issued by the Private Postsecondary Education Division.

Memoranda of understanding with other State agencies

The Reform Act called upon the Council to develop memoranda of understanding (MOU's) in which the Council would outline the coordination of oversight responsibilities between appropriate boards and agencies under the Department of Consumer Affairs (DCA), the Department of Health Services (DHS) and the Council. Such MOU's typically clarify the roles of each party and establish administrative responsibility for oversight in areas such as curricula requirements, physical facilities, equipment, instructor qualifications and student completions. In general, the jurisdiction of boards is limited and the MOU's represent a partnership wherein the Board oversees the occupational curricula that a program is required to offer in order for a candidate to sit for a board exam, and the Council oversees the program in terms of its compliance with the requirements of all other vocational schools with regard to graduation and placement rates and other consumer protection provisions under Section 94311. In order for a school to receive approval by the Council, it must first obtain the approval of the agency within the Department of Consumer Affairs under which it operates. Dual jurisdiction under this provision appears to be effective and efficient, with both parties cooperating in oversight activities and the processing of complaints.

Federal Aviation Administration

The Council is also given the explicit authority to enter into an agreement for the regulation and oversight of non-degree-granting private postsecondary institutions with the Federal Aviation Administration. Specifically, Section 94311.8 provides that all institutions that are certified to offer flight instruction by the Federal Aviation Administration (FAA) shall receive approval from the Council for a period not to exceed three years. It was the intent of the Act that the Council develop a memorandum of understanding with the FAA to delineate the responsibilities of each agency for the approval and monitoring of these institutions. This MOU was developed in 1994, and appears to specify satisfactorily the separate functions of the Council and the FAA. Specifically, institutions offering flight instruction by the FAA must submit all of the material required by the FAA with their applications, including the institution's catalog or course syllabus. Such schools must comply with standards for institutional maintenance and operation and the student protection provisions required of other vocational institutions, but shall not be required to file any materials with the Council that are not required through the FAA, other than those minimally necessary to administer the Student Tuition Recovery Fund.

California Committee of Bar Examiners

Section 94310(c) gave the Council the authority to delegate its regulation and oversight responsibilities of accredited private law schools to the California Committee of Bar Examiners (CCBE). The Council and the CCBE have implemented an informal agreement under which the CCBE retains oversight of curricular issues, and the Council oversees other issues such as financial stability, consumer protection, and faculty qualifications.

The Commission makes no recommendations to change the practices and policies by which the Council delegates authority for partial oversight of institutions.

VI. The desirability of revising State financial aid programs to enable Council-approved degree-granting institutions to participate

Current state law requires that Cal Grant recipients use their awards only at those institutions that are accredited and that participate in the federal Pell Grant Program and two of the three federal campus-based student aid programs. Thus, current state law limits the institutions at which a student may use his or her Cal Grant award. The primary reason for this limitation stems from the belief that if an institution participates in the aforementioned federal programs, it will also have the institutional personnel, capacity, and ability to administer Cal Grant funds.

The Commission believes that if an institution is approved by the State to operate, it should also be eligible to participate in the State's financial aid program, provided that it has the capacity and ability to do so effectively. However, many of the institutions approved by the State lack the accreditation necessary to participate in the federal student aid programs. Further, the State's current reliance on participation in federal aid programs as a sole indicator of an institution's administrative ability deters those institutions that might otherwise have the capacity to administer financial aid programs, but have chosen not to seek accreditation or participate in the federal aid programs.

A Council review of an institution to determine whether it should be approved to operate does not include an evaluation of whether the institution possesses the institutional personnel, capacity, and ability to administer financial aid programs. Thus, simply because an institution is approved by the Council to operate should not mean that the institution is automatically eligible to participate in the State Cal Grant program. However, the Commission believes that an alternative should exist for institutions to demonstrate that they have the institutional personnel, capacity, and ability to administer State Cal Grant funds.

Recommendation 21 **The Commission recommends that current State law be amended to permit all approved institutions to participate in the Cal Grant programs provided that they demonstrate to the satisfaction of the California Student Aid Commission that they: (1) possess the capacity and ability to administer student financial aid funds, and (2) provide a minimum level of institutional-funded financial assistance. Further, the Commission recommends that the Student Aid Commission develop procedures for determining whether an institution has demonstrated the above two requirements as well as an application for institutions to apply to participate in the Cal Grant program.**

4 Other Issues

WHILE THE LEGISLATURE requested that the Commission specifically review and comment on the six areas discussed above, the Commission identified six other issues in conducting this review which it has determined warrant comment and potential action. In this section, the Commission discusses these six issues.

English as a Second Language

Although not included in the enabling legislation, schools offering English as a Second Language (ESL) programs were included in the oversight responsibilities of the Council in 1993. Because of the sharp increase in demand for instruction (currently over 13,000 students enrolled) and the number of schools which have come into existence in the last few years, Commission staff reviewed the law and its implementation as it pertains to these programs. Schools offering ESL instruction must comply not only with minimum standards of other non-degree granting schools, the statute also requires additional documentation and performance expectations. If a student does not attain adequate English language proficiency after the completion of ESL instruction, the school must offer the student a choice of a full refund or enrollment in additional ESL instruction -- without charge -- until the student attains adequate English proficiency. Only ESL programs which do not lead to employment and do not participate in federal financial aid programs are exempt from these requirements.

Based on statutory requirements, the Council has convened meetings with ESL instructors from private postsecondary schools to discuss their concerns about the law. Although regulations have not been officially adopted, the Council has conducted visits to the 13 institutions in California receiving Pell grants for ESL instruction. Based on these visits, the Council issued conditional approval to all 13 of the schools. Since initial visits, five of these institutions have closed as a result of Council monitoring and review.

A related issue has emerged with regard to English as a Foreign Language (EFL) schools. These schools claim that they are different from ESL schools and should not be subject to oversight by the Council for the following reasons: (a) They give instruction to international students who are visiting the United States, rather than resident immigrants, and (b) They focus on basic English communication skills and cross cultural communication rather than citizenship and survival skills. A major determining issue is whether or not the EFL schools prepare students for employment or further education. The Council is currently addressing the status of EFL schools and whether they will be exempt from State requirements placed upon similar programs. Since the Commission has concerns related to protections

for students attending these schools, particularly refund requirements, staff will continue to monitor Council deliberation on the status of EFL institutions.

Integration of California private postsecondary education into State policy and planning

While one of the intents of the Reform Act was to "promote the effective integration of private postsecondary education into all aspects of California's educational system", little progress has been made in this regard, despite attempts by the Council and its senior staff to effectuate such integration. From a structural perspective, the integration of private postsecondary education is currently limited to one member of the Council serving on the California Postsecondary Education Commission and one member of the Commission serving as a non-voting member on the Council. In terms of programmatic integration, the Council is attempting to have the coursework of approved institutions recognized by California's public and independent colleges and universities, but to date little progress has been made.

Few discussions -- outside the legislative arena -- have occurred at the State level regarding California's private postsecondary education institutions. For example, little, if any, attention has been paid to the potential role these institutions play or could play in serving the educational needs of the increasing numbers of students demanding quality postsecondary education and training. As previously stated in its *Challenge of the Century* planning document, the Commission believes that the State must use all available resources -- including the State's private postsecondary education institutions -- to serve the educational needs of California's citizens.

Recommendation 22

The Commission recommends that the State specifically take into consideration in all policy and planning activities the role that could be played by the State's private postsecondary education institutions as the State continues its planning for the future of California higher education. Further, in order for California's private institutions to be better integrated into these policy and planning discussions, the Commission recommends that the California Education Roundtable include the Council's Executive Director as a member of that voluntary group.

Focus on further improvement in the quality of California private postsecondary education

During the past several years, much of the Council's focus has been on ensuring that the schools which continue to operate provide a *minimum* level of educational quality. Since the Council is now nearing the completion of that undertaking, the Commission believes that the Council may wish to consider shifting its focus to assisting institutions in improving the overall quality of their program offerings and operations.

Recommendation 23

While continuing the Council's regulatory responsibilities, the Commission encourages the Council to assume a greater and more aggressive "technical assistance" role in providing institutions with advice, suggestions, and recommendations on ways that they may improve their services.

Institutional reporting of student achievement in all vocational education programs

Throughout the course of the Commission's discussions in preparation for this report, one issue raised repeatedly was not directly related to the State's private postsecondary education institutions, but rather to those institutions exempt from Council oversight. As previously indicated, private postsecondary education institutions under the Council's oversight must present student outcome statistics for vocational education programs and must ensure that these outcomes meet certain levels if the institution is to continue to operate within California. A number of individuals -- both from within and outside the private postsecondary education community -- commented that the State's public and independent colleges and universities offering vocational education programs were not required to present similar statistics nor meet minimum required standards with respect to the proportion of students entering such programs who graduate or complete those programs and subsequently are employed in a field related to the course of their vocational study.

A common statement heard from representatives of private postsecondary institutions was that the State's community colleges often offer vocational education programs identical to those provided by the State's private education institutions, but unlike the private institutions, the community colleges need not disclose completion and job placement rates to entering students. Further, they note that the community colleges are not required to ensure that 60 percent of their students graduate or that 70 percent of the graduates are placed in jobs related to their field of study, as is the case for private institutions offering vocational programs. In fact, many observers claim that the community colleges lack the information base necessary to provide statistics regarding student outcomes in their vocational education programs.

The Commission believes that the State's consumers of vocational education would benefit from knowledge of the graduation and employment placement rates of all postsecondary institutions offering vocational education programs -- including public, independent, and private postsecondary institutions. In addition, the State would also benefit from that information as it attempts to make the most effective use of limited funding available for providing vocational education training opportunities to Californians.

Recommendation 24 **The Commission recommends that each of the public and independent postsecondary education institutions that offer vocational education programs develop and readily disclose information on the graduation/completion and employment placement rates of students enrolled in their vocational education programs. In addition, the Commission should further examine whether the minimum student outcomes required of the State's private vocational education institutions should be required of all postsecondary institutions offering vocational education.**

Coordinate the requirements of regulatory agencies to reduce the burden on institutions

A concern expressed by nearly every private postsecondary institution representative related to the level and duplication of regulatory provisions with which the institution must comply. For example, an accredited private postsecondary institution that participates in federal student loan programs and trains individuals for a profession requiring licensure must comply with the regulations of at least five different agencies including: (1) the Council, (2) the appropriate state licensing agency, (3) the school's accrediting association, (4) the California Student Aid Commission, and (5) the U.S. Department of Education. Many of these agencies have similar, though somewhat different, rules and requirements with which the institution must comply. These similar though different requirements cause confusion and result in additional burden and expense for the institution.

Recommendation 25

To the extent possible, the Commission recommends that the Council review its regulatory requirements to determine whether they could be aligned or better coordinated with the requirements of other institutional regulatory and oversight agencies. Further, the Commission also encourages the Council to discuss the desirability of seeking approval for the Council to serve as an accrediting agency recognized by the U.S. Secretary of Education and to report its findings on that matter to the Governor, Legislature, and Commission prior to taking any further actions in this regard.

Federal "Gatekeeping" Entities: responsibility for ensuring quality and integrity

Historically, Congress has relied upon recognized accrediting agencies, state licensure agencies, and reviews by the U.S. Department of Education to ensure the quality and integrity of postsecondary education institutions participating in federal student aid programs. These three entities combined are known as the "integrity triad" and all three jointly share responsibility for ensuring quality and integrity. However, because Congress became concerned about the ability of these entities to ensure quality and integrity, in 1992, Congress created and added to the "integrity triad" the State Postsecondary Review Entities (SPREs). SPREs were to help eliminate fraud and abuse of the federal student aid programs by conducting reviews of institutions that appear to be experiencing difficulties based upon federally defined indicators. In California, the Commission was designated by the Governor to serve as the State's SPRE agency. However, as of July 27, 1995, future federal funding for the SPRE program was eliminated and, as a result, no SPRE program activities will be undertaken by the Commission.

Many believe that the "integrity triad" -- with or without SPRE -- is not doing an adequate job of ensuring quality and integrity and that much overlap exists among the triad members' responsibilities. As a result, discussions are now occurring at both the federal and state levels about which entity or entities should be responsible for ensuring the quality and integrity of postsecondary education institutions, particularly those that participate in federal student aid programs. In addition, each of the triad members is reexamining its own role and responsibilities to determine if it should function differently than it has in the past.

Since maintaining quality and integrity is vital not only to the students served by postsecondary education institutions, but also to continued public support for postsecondary education, the Commission will continue to actively participate in discussions regarding institutional oversight and institutional accountability and will present proposed recommendations in these areas to the Commission as necessary.

5 Summary of Recommendations

THE FOLLOWING summary presents the recommendations by category: Section A contains suggested amendments to the Reform Act itself, Section B presents the recommendations pertaining to implementation issues, and Section C contains those recommendations which apply to other entities. The genesis of the Reform Act grew out of the need *to ensure student protection at the postsecondary level*, a premise which guides these recommendations. Ensuring student protection is the rationale, the purpose, and the major focus upon which the following recommendations are based.

A. Suggested amendments to the Reform Act

1. **Because the Reform Act has been effective in improving the integrity of degrees and diplomas and because its rigorous consumer provisions have been protecting students from misrepresentation and unfair practices, the Commission recommends that the Act be continued indefinitely and that the California Postsecondary Education Commission review the implementation of the law on a periodic basis.**

2. **The Commission encourages the Council to develop a legislative proposal to restructure the Act with the limited objective of clarifying the law for all parties.**

3. **The Commission recommends that the Reform Act be amended to provide the Council with the authority and other resources necessary to ensure that all private postsecondary education institutions offering instruction in the State operate in compliance with the Reform Act.**

4. **The Commission recommends that the Reform Act be amended to require that all private vocational education programs -- both degree and non-degree programs operated by both profit and non-profit institutions -- comply with the provisions of Education Code Section 94311 and Article 2.5 of the Act.**

5. **The Commission recommends that the Reform Act be amended to protect all consumers of private postsecondary education residing in California, regardless of whether the institution offering the instruction is located within or outside the State's boundaries.**

8. **The Commission recommends that the Reform Act be amended to delete the requirement that the Council's approval standards not exceed WASC accreditation standards because these standards serve different purposes.**

10. **The Commission recommends that WASC-accredited private institutions with a federal cohort default rate in excess of 20 percent no longer be exempted from oversight by the Council and that the Reform Act be amended to require that these institutions comply with all requirements of the Act.**

12. **The Commission recommends that the Council seek amendment to the Reform Act or tighten the appropriate regulations to clarify that only those degree programs exclusively involving religious teachings and beliefs be exempted from State oversight.**

13. **The Commission recommends that the current Reform Act be amended to eliminate the exemption to the previously specified nationally accredited institutions provided in Education Code Section 94303(2).**

14. **The Commission recommends that the Legislature amend the Private Postsecondary and Vocational Education Reform Act to reduce the number of seats on the Council and establish that a majority of those seats are held by public members.**

B. Suggested revisions in implementation by the Council

5. **The Commission encourages the Council to explore collaboration with regulatory agencies in other states for the purpose of ensuring consumer protection in postsecondary education in California.**

6. **The Commission recommends that the appropriate regulations be amended to require that all institutional operations -- both those within and outside the State -- be reviewed by the Council prior to an institution receiving approval to operate as a California-approved institution.**

7. **The Commission encourages the Council to engage in a broad-based discussion to better define the requirements necessary for obtaining approval to operate as a degree-granting institution and to use these minimum requirements to make program approval decisions.**

9. **The Commission encourages the Council to explore ways in which to incorporate a qualitative review of all vocational education programs into the requirements by which institutions receive approval to operate in the State. In addition, the Commission also encourages the Council to develop a process for verifying the accuracy of the institution's self-reported completion and job placement statistics.**

15. **In the interest of improving the Council's ability to conduct business in a timely manner, the Commission recommends that , when there is a quorum, the Council initiate a procedural change in the voting requirement such that a motion is passed by a simple majority of members present.**

16. **The Commission encourages the Council to continue the practice of delegating initial approval decisions to staff with ultimate responsibility for final determinations reserved for the Council.**

17. **The Commission recommends that the Council for Private Postsecondary and Vocational Education strive to improve its communications with the institutions over which it has oversight.**

18. **The Commission recommends that the Council for Private Postsecondary and Vocational Education examine ways to provide an increased level of training for team members to ensure the integrity of visitations to degree-granting institutions.**

19. **The Commission recommends that the Council provide training opportunities for all staff with the goal of greater consistency in interpretating the law and regulations and enhanced flexibility to make professional judgments in exceptional circumstances.**

20. **The Commission recommends that the Council make every effort to identify ways of streamlining its school closure and appeals process.**

23. **While continuing the Council's regulatory responsibilities, the Commission encourages the Council to assume a greater and more aggressive "technical assistance" role in providing institutions with advice, suggestions, and recommendations on ways that they may improve their services.**

25. **To the extent possible, the Commission recommends that the Council review its regulatory requirements to determine whether they could be aligned or better coordinated with the requirements of other institutional regulatory and oversight agencies. Further, the Commission also encourages the Council to discuss the desirability of seeking approval for the Council to serve as an accrediting agency recognized by the U.S. Secretary of Education and to report its findings on that matter to the Governor, Legislature, and Commission prior to taking any further actions in this regard.**

C. Suggested revisions to procedures and practices of other entities

11. The Commission urges both the Junior and Senior Accrediting Commissions of WASC to carefully review their standards of accreditation to ensure that the level of consumer protection -- including the adequacy and fairness of complaint processes -- at their member institutions is at least as rigorous as those protections provided to students attending Council-approved institutions.

21. The Commission recommends that current State law be amended to permit all approved institutions to participate in the Cal Grant programs provided that they demonstrate to the satisfaction of the California Student Aid Commission that they: (1) possess the capacity and ability to administer student financial aid funds, and (2) provide a minimum level of institutional-funded financial assistance. Further, the Commission recommends that the Student Aid Commission develop procedures for determining whether an institution has demonstrated the above two requirements as well as an application for institutions to apply to participate in the Cal Grant program.

22. The Commission recommends that the State specifically take into consideration in all policy and planning activities the role that could be played by the State's private postsecondary education institutions as the State continues its planning for the future of California higher education. Further, in order for California's private institutions to be better integrated into these policy and planning discussions, the Commission recommends that the California Education Roundtable include the Council's Executive Director as a member of that voluntary group.

24. The Commission recommends that each of the public and independent postsecondary education institutions that offer vocational education programs develop and readily disclose information on the graduation/completion and employment placement rates of students enrolled in their vocational education programs.

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

THE California Postsecondary Education Commission is a citizen board established in 1974 by the Legislature and Governor to coordinate the efforts of California's colleges and universities and to provide independent, non-partisan policy analysis and recommendations to the Governor and Legislature.

Members of the Commission

The Commission consists of 17 members. Nine represent the general public, with three each appointed for six-year terms by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. Six others represent the major segments of postsecondary education in California. Two student members are appointed by the Governor.

As of October 1995, the Commissioners representing the general public are:

Henry Der, San Francisco; *Chair*
Guillermo Rodriguez, Jr., San Francisco; *Vice Chair*
Elaine Alquist, Santa Clara
Mim Andelson, Los Angeles
C. Thomas Dean, Long Beach
Jeffrey I. Marston, San Diego
Melinda G. Wilson, Torrance
Linda J. Wong, Los Angeles
Ellen F. Wright, Saratoga

Representatives of the segments are:

Roy T. Brophy, Fair Oaks; appointed by the Regents of the University of California;

Yvonne W. Larsen, San Diego; appointed by the California State Board of Education;

Alice Petrossian, Glendale; appointed by the Board of Governors of the California Community Colleges;

Ted J. Saenger, San Francisco; appointed by the Trustees of the California State University;

Kyhl Smeby, Pasadena; appointed by the Governor to represent California's independent colleges and universities; and

Frank R. Martinez, San Luis Obispo; appointed by the Council for Private Postsecondary and Vocational Education.

The two student representatives are:

Stephen R. McShane, San Luis Obispo
John E. Stratman, Jr., Orange

Functions of the Commission

The Commission is charged by the Legislature and Governor to "assure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and to promote diversity, innovation, and responsiveness to student and societal needs."

To this end, the Commission conducts independent reviews of matters affecting the 2,600 institutions of postsecondary education in California, including community colleges, four-year colleges, universities, and professional and occupational schools.

As an advisory body to the Legislature and Governor, the Commission does not govern or administer any institutions, nor does it approve, authorize, or accredit any of them. Instead, it performs its specific duties of planning, evaluation, and coordination by cooperating with other State agencies and non-governmental groups that perform those other governing, administrative, and assessment functions.

Operation of the Commission

The Commission holds regular meetings throughout the year at which it debates and takes action on staff studies and takes positions on proposed legislation affecting education beyond the high school in California. By law, its meetings are open to the public. Requests to speak at a meeting may be made by writing the Commission in advance or by submitting a request before the start of the meeting.

The Commission's day-to-day work is carried out by its staff in Sacramento, under the guidance of its executive director, Warren Halsey Fox, Ph.D., who is appointed by the Commission.

Further information about the Commission and its publications may be obtained from the Commission offices at 1303 J Street, Suite 500, Sacramento, California 98514-2938; telephone (916) 445-7933.

THE EFFECTIVENESS OF CALIFORNIA'S OVERSIGHT OF PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION

Commission Report 95-13

ONE of a series of reports published by the California Postsecondary Education Commission as part of its planning and coordinating responsibilities. Single copies may be obtained without charge from the Commission at 1303 J Street, Suite 500, Sacramento, California 95814-2938. Recent reports include:

1995

- **95-1** *A New State Policy on Community College Student Charges* (February 1995)
- **95-2** *The WICHE Compact: An Assessment of California's Continued Membership in the Western Interstate Commission for Higher Education* (February 1995)
- **95-3** *The Challenge of the Century: Planning for Record Student Enrollment and Improved Outcomes in California Postsecondary Education* (April 1995)
- **95-4** *Faculty Salaries in California's Public Universities, 1995-96: A Report to the Legislature and the Governor in Response to Senate Concurrent Resolution No. 51* (April 1995)
- **95-5** *Legislative and State Budget Priorities of the Commission, 1995: A Report of the California Postsecondary Education Commission* (April 1995)
- **95-6** *Executive Compensation in California Public Higher Education, 1994-95: The Third in a Series of Annual Reports to the Governor and Legislature in Response to the 1992 Budget Act* (June 1995)
- **95-7** *Approval of the Escondido Center of the Palomar Community College District: A Report to the Governor and Legislature in Response to a Request from the Board of Governors of the California Community Colleges* (June 1995)
- **95-8** *Perspective of the California Postsecondary Education Commission on Educational Equity* (June 1995)
- **95-9** *A Capacity for Growth: Enrollments, Resources, and Facilities for California Higher Education, 1993-94 to 2005-06* (August 1995)
- **95-10** *Financial Condition of Independent California Colleges and Universities: A Report of the California Postsecondary Education Commission* (August 1995)
- **95-11** *Fiscal Profiles, 1995: The Fifth in a Series of Factbooks About the Financing of California Higher Education* (August 1995)
- **95-13** *The Effectiveness of California's Oversight of Private Postsecondary and Vocational Education: A Report to the Legislature and the Governor in Response to Education Code Section 94345* (October 1995)